

SUBCHAPTER B—REGULATIONS AFFECTING OCEAN SHIPPING IN FOREIGN COMMERCE

PART 515—LICENSING, FINANCIAL RESPONSIBILITY REQUIREMENTS, AND GENERAL DUTIES FOR OCEAN TRANSPORTATION INTERMEDIARIES

Subpart A—General

- Sec.
- 515.1 Scope.
- 515.2 Definitions.
- 515.3 License; when required.
- 515.4 License; when not required.
- 515.5 Forms and fees.

Subpart B—Eligibility and Procedure for Licensing

- 515.11 Basic requirements for licensing; eligibility.
- 515.12 Application for license.
- 515.13 Investigation of applicants.
- 515.14 Issuance and use of license.
- 515.15 Denial of license.
- 515.16 Revocation or suspension of license.
- 515.17 Application after revocation or denial.
- 515.18 Changes in organization.

Subpart C—Financial Responsibility Requirements; Claims Against Ocean Transportation Intermediaries

- 515.21 Financial responsibility requirements.
- 515.22 Proof of financial responsibility.
- 515.23 Claims against an ocean transportation intermediary.
- 515.24 Agent for service of process.
- 515.25 Filing of proof of financial responsibility.
- 515.26 Termination of financial responsibility.
- 515.27 Proof of compliance.

APPENDIX A TO SUBPART C—OCEAN TRANSPORTATION INTERMEDIARY (OTI) BOND FORM [FORM-48]

APPENDIX B TO SUBPART C—OCEAN TRANSPORTATION INTERMEDIARY (OTI) INSURANCE FORM [FORM-67]

APPENDIX C TO SUBPART C—OCEAN TRANSPORTATION INTERMEDIARY (OTI) GUARANTY FORM [FORM-68]

APPENDIX D TO SUBPART C—OCEAN TRANSPORTATION INTERMEDIARY (OTI) GROUP BOND FORM [FMC-69]

APPENDIX E TO SUBPART C OF PART 515—OPTIONAL RIDER FOR ADDITIONAL NVOCC FINANCIAL RESPONSIBILITY (OPTIONAL RIDER TO FORM FMC-48) [FORM 48A]

APPENDIX F TO SUBPART C OF PART 515—OPTIONAL RIDER FOR ADDITIONAL NVOCC FINANCIAL RESPONSIBILITY FOR GROUP BONDS(OPTIONAL RIDER TO FORM FMC-69]

Subpart D—Duties and Responsibilities of Ocean Transportation Intermediaries; Reports to Commission

- 515.31 General duties.
- 515.32 Freight forwarder duties.
- 515.33 Records required to be kept.
- 515.34 Regulated Persons Index.

Subpart E—Freight Forwarding Fees and Compensation

- 515.41 Forwarder and principal; fees.
- 515.42 Forwarder and carrier; compensation.
- 515.91 OMB control number assigned pursuant to the Paperwork Reduction Act.

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Subpart A—General

§515.1 Scope.

(a) This part sets forth regulations providing for the licensing as ocean transportation intermediaries of persons who wish to carry on the business of providing intermediary services, including the grounds and procedures for revocation and suspension of licenses. This part also prescribes the financial responsibility requirements and the duties and responsibilities of ocean transportation intermediaries, and regulations concerning practices of ocean transportation intermediaries with respect to common carriers.

(b) Information obtained under this part is used to determine the qualifications of ocean transportation intermediaries and their compliance with shipping statutes and regulations. Failure to follow the provisions of this part may result in denial, revocation or suspension of an ocean transportation

§515.2

46 CFR Ch. IV (10–1–05 Edition)

intermediary license. Persons operating without the proper license may be subject to civil penalties not to exceed \$5,500 for each such violation unless the violation is willfully and knowingly committed, in which case the amount of the civil penalty may not exceed \$27,500 for each violation; for other violations of the provisions of this part, the civil penalties range from \$5,500 to \$27,500 for each violation (46 U.S.C. app. 1712). Each day of a continuing violation shall constitute a separate violation.

§515.2 Definitions.

The terms used in this part are defined as follows:

(a) *Act* means the Shipping Act of 1984, as amended by the Ocean Shipping Reform Act of 1998 and the Coast Guard Authorization Act of 1998.

(b) *Beneficial interest* includes a lien or interest in or right to use, enjoy, profit, benefit, or receive any advantage, either proprietary or financial, from the whole or any part of a shipment of cargo where such interest arises from the financing of the shipment or by operation of law, or by agreement, express or implied. The term “beneficial interest” shall not include any obligation in favor of an ocean transportation intermediary arising solely by reason of the advance of out-of-pocket expenses incurred in dispatching a shipment.

(c) *Branch office* means any office in the United States established by or maintained by or under the control of a licensee for the purpose of rendering intermediary services, which office is located at an address different from that of the licensee’s designated home office.

(d) *Brokerage* refers to payment by a common carrier to an ocean freight broker for the performance of services as specified in paragraph (n) of this section.

(e) *Commission* means the Federal Maritime Commission.

(f) *Common carrier* means any person holding itself out to the general public to provide transportation by water of passengers or cargo between the United States and a foreign country for compensation that:

(1) Assumes responsibility for the transportation from the port or point of receipt to the port or point of destination, and

(2) Utilizes, for all or part of that transportation, a vessel operating on the high seas or the Great Lakes between a port in the United States and a port in a foreign country, except that the term does not include a common carrier engaged in ocean transportation by ferry boat, ocean tramp, chemical parcel tanker, or by a vessel when primarily engaged in the carriage of perishable agricultural commodities.

(i) if the common carrier and the owner of those commodities are wholly-owned, directly or indirectly, by a person primarily engaged in the marketing and distribution of those commodities, and

(ii) only with respect to those commodities.

(g) *Compensation* means payment by a common carrier to a freight forwarder for the performance of services as specified in §515.42(c).

(h) *Freight forwarding fee* means charges billed by a freight forwarder to a shipper, consignee, seller, purchaser, or any agent thereof, for the performance of freight forwarding services.

(i) *Freight forwarding services* refers to the dispatching of shipments on behalf of others, in order to facilitate shipment by a common carrier, which may include, but are not limited to, the following:

- (1) Ordering cargo to port;
- (2) Preparing and/or processing export declarations;
- (3) Booking, arranging for or confirming cargo space;
- (4) Preparing or processing delivery orders or dock receipts;
- (5) Preparing and/or processing ocean bills of lading;
- (6) Preparing or processing consular documents or arranging for their certification;
- (7) Arranging for warehouse storage;
- (8) Arranging for cargo insurance;
- (9) Clearing shipments in accordance with United States Government export regulations;
- (10) Preparing and/or sending advance notifications of shipments or other documents to banks, shippers, or consignees, as required;